The next edition of Prof. Burdick's book could profitably undergo the same treatment. He who writes excellently efficient works on "Partnership" and "Sales," and intended primarily for students of the law, is not in a position to write for the high-school student or business man, without the high-school teacher's or business man's help. What he has given us in this short book on business law is essentially good, but misdirected. The chapters on "The Nature and Origin of Municipal Law" and "The Law Merchant and the Common Law" could be read with profit by any first-year student of the law or any thoughtfully intelligent business man. The chapters on Contracts (some 64 pp. long and divided into seven well-digested and well-written sections)—Agency, Bailments, Bankruptcy and insolvency, Insurance, Negotiable Paper, Partnerships, and Real and Personal Property—are divided quite efficiently into helpful sections, and each section into numerous headings, under each of which is an appropriate and concise explanation. All this, of course, will be helpful to some one, and we judge that that some one must be the student in a business college, under the direction of a teacher well trained in the law, or the business man who is willing to spend a deal of his spare time conscientiously studying these chapters. And an overwhelming majority of this latter class would prefer to pay an attorney for advice to consuming evening hours with a study of the law.

Then the value of the book is confined to students of a commerical college course. Properly, then, it is a text-book, and it lacks a most important element, viz., references. The very brevity of the work demands this, when we consider that the commercial student will always desire a more extensive knowledge of some topic in the book, and is entitled to immediate references. It would be little trouble to make such addition; it could do no harm, and could not fail to do some good. We suggest that they take the form of foot-notes; and when a great judge is quoted, why not give the source of the quotation? Not every reader will have access to a law library, not every reader will care to refer to the opinions cited, but there is no reason why the few who may have such access or such desire should not be satisfied.

The index and the form of the book are wholly satisfactory.

E. H. B.

NOTES ON RECENT LEADING ARTICLES IN LEGAL PERIODICALS.

ALBANY LAW JOURNAL.—October.

The Exigencies of Eminent Domain, No. 2. Theodore F. C. Demorest. "The object of this article is to trace the history of the law, in New York, relative to the right of an upper-story railroad corporation to erect and maintain a station over a public street, in front of an abut-

tor's windows." An amusing presentation of a subject of rather serious import to New York people. The "upper-story railroad corporation" is finally discovered to be bound to recompense the abuttors for the deprivation of light, air and access. The paper is confined to the New York law on the subject.

Has the Supreme Court Discouraged Protection of American Interests Against Foreign Aggression? George F. Ormsby. An article by the "present judge-advocate-general," published in the *Green Bag* for April, 1903, and claiming for him the support and approval of the United States Supreme Court, is here answered by the attorney for the seaman in the case which formed the text for the first article. That article, as was noted at the time, was written from the standpoint of the judge-advocate-general, and the view from that point seemed a very contracted one. Mr. Ormsby shows that the Supreme Court does not uphold the Navy Department in its present attitude of discrimination against naval seamen by depriving them of the proper opportunity to prepare for trial.

Divisibility of the Contract of Fire Insurance: Considered with Especial Reference to the Texas Law. H. R. Bondies. While the cases examined are mainly Texas cases, the discussion is not wholly confined to the law as it exists in that state, and the article is one which is more than locally interesting and valuable. The author claims that the tendency of our courts is to hold the contract of fire insurance divisible.

The Law and the Mob Spirit. Hon. John Woodward. (Address at the Chautauqua Assembly.) Interesting, earnest, thorough and excellently well written, this paper only does once more what has been less well done so many times within the last few months. Since all the reasons for the steady increase of those bodies of men who will not wait for the law to execute what they consider justice, but execute it for themselves, which have been stated, can be so well and fully shown, as they are here, to be no reasons for the existing fact, would it not be well to look for some other reason? Judge Woodward says, "It should always be remembered that the great purpose of organized government is protection to the individual." Does not the increasing disposition of the individual to protect himself indicate that he does not find the law protecting him? The historian looks for the causes of popular movements among the people to the conditions surrounding those people. Why should not the contemporary observer do likewise?

Sir Frederick Pollock: A Study. A short sketch of the distinguished English lawyer, accompanied by a very excellent portrait.

The Comedy of History. Neal Brown. There can be no doubt that the view of history here given is that of the comedian. Much of the article would be amusing if it were not for the too evident attempt to make it so.

The Doctrine of Reasonable Doubt. J. S. Burger. (Address delivered before the Bar Association of Kansas.) Again the doctrine of reasonable doubt has found a defender, and incidentally we have an eulogy of the intelligent juror and the American judge. Mr. Burger informs his opponents that their hopes will never know fruition, for "as long as men hold their reputation, liberty and life dear, so long will this doctrine stand as the shield of innocence and the champion of liberty."

Great Trials in Fiction. V. In a Russian Court: "Resurrection." Tolstoi. This trial scene differs greatly from all that have been given in this series. It is so badly translated, however, that no idea of its value as literature can be gained by an attempt to read it.

AMERICAN LAW REVIEW.—September-October.

Due Process of Law. Alton B. Parker. (First part of an address delivered before the Georgia Bar Association.) The history of the phrase

is first traced, both in England and in America, in a most interesting manner. We then come to the discussion of the fourteenth amendment, and the changes thereby made, leading up to a study of the decisions relating to that part of the fourteenth amendment which involves the "due process of law" provision.

Law and Reasonableness. Hon. Le Baron B. Colt. (Address before the American Bar Association.) (Mentioned last month.)

"Coon-Skin Cap Law." (Response to a toast by Hon. Henry Clay Caldwell.) A humorous presentation of a serious subject. Although only a response to a toast, it contains an argument for the rights of those who have preferential claims for labor done or goods supplied to railroads in process of construction.

English Law Reporting. Sir Frederick Pollock. (Paper read before the American Bar Association, August 26, 1903.) This address by the editor of the *English Law Reports* cannot fail to be of interest to every one who uses those reports. It goes thoroughly into the matter of the preparation and publication of the reports and gives a very clear insight into the manner in which all this work is done.

Imprisonment in the Navy. George F. Ormsby. Mr. Ormsby was counsel for John Smith, naval seaman, who was tried by court-martial. Judge-Advocate-General Lemly, after the trial of the case, published an article in the *Green Bag* in April, 1903. This article is strongly objected to by Mr. Ormsby, and apparently with reason. He has printed one article in the *Albany Law Review* (already noticed), in which he opposes the view of Judge-Advocate-General Lemly. In this article he goes still further, and accuses "the navy's law office" very seriously.

Federal Control of Corporations. John Bell Sanborn. This article proposes a new method for "regulating the trusts," and sets forth the proposition clearly and briefly. The theory is that Congress, having power over certain classes of corporations, can tax such corporations out of existence, and that the trusts belong in the class which can be so taxed.

The Right of Landowners to Deflect Upon the Land of Others Waters Overflowing from Watercourses. J. L. Lockett. The question as to what class these overflowing waters belong is first taken up; that is, should they be classed as watercourses or as surface water? The cases cited are naturally nearly all from those states bordering upon our great rivers. Indiana, Missouri, Iowa, Washington and Kansas are given as states in which overflow waters are classified as surface water. Minnesota, Georgia, Nebraska, Ohio and Texas hold them to be a part of the watercourse. The author claims that they should be in a class by themselves, and that by so placing them the present inconsistencies and discrepancies in the laws of the different states may be avoided.

BANKING LAW JOURNAL.—October.

Indorsement of Checks Paid Over the Counter. This paper is divided into the following subjects: Reasons for Indorsement Requirement; Debtor Not Entitled to Receipt; Is Bank Entitled to Receipt? Does Usage Authorize Bank to Require Payee's Indorsement? and Holder of Bearer Check Need Not Indorse. These titles sufficiently indicate the subject-matter of the article. The writer shows that custom, rather than law, governs in most of these cases, but that the law is inclined to follow customs which are so evidently founded on common sense and business necessity.

Elastic Currency Based on Bonds. Clarence Van Dyke Tiers. It is contended that our present currency is not elastic, and a copy of a bill,

introduced into Congress, December 3, 1901, is given. This quite elaborate bill provides for a currency based on bonds, which the author claims would secure to the country an elastic currency "that would automatically respond to every requirement."

THE BRIEF, Vol. IV, No. 4.

New Conditions and the Old Lawyer. John C. Boyle. This last literary work of Mr. Boyle, written but a few days before his death, is almost a lament upon the passing of the lawyer of the olden time; yet the last paragraphs are in a more cheerful note and leave a hope for the coming of the new lawyer who may—though one cannot be sure of it—rise even beyond the level of the lawyer who is now passing away. It is here, as elsewhere, the new combinations, trusts, aggregations of men of all sorts and kinds, who are credited with causing all this, not too welcome, change.

The Monroe Doctrine. Samuel Herrick, D. C. L. The customary English sneer at anything not specifically English seems to have been the arousing force that awoke the writer of this article, and the reader may well be grateful for the sneer that gave cause for so fine a retort. The first part of the article gives a clear, vigorous and complete history of the doctrine; the second part presents its present status. The author brings out fully the tremendous part the "Venezuela boundary dispute" and the action of the administration at that time has had in the final recognition of the doctrine at this time as a principle of the great body of international law. President Roosevelt's denial of this recognition is ably controverted in the latter part of this paper.

A New York Code of Evidence. "In 1889, David Dudley Field and William Rumsey reported to the New York Legislature a proposed code of evidence for that state. The reported code was not adopted, but has been found so useful for reference that the greater part is here reproduced, together with the copyrighted notes and annotations of Mr. Field and Mr. Rumsey and supplemented with unpublished notes of Mr. Rumsey and Professor Carlos C. Alden, of the New York University Law School."

CANADA LAW JOURNAL.—October.

Provincial Legislation of 1903. G. S. Holmested. A general summing up of the changes and additions made by the Ontario Legislature at its recent session in the statute law of Ontario. No changes of apparent importance are noted.

Sunday Observance. J. B. Mackenzie. "The Lord's Day Alliance" having drawn some comfort from the decision in *Attorney-General of Ontario* v. *Hamilton Street Railway Company,* delivered last July by the Privy Council, Mr. Mackenzie devotes this paper to withdrawing that comfort from them. He only succeeds, however, in showing that there are still two sides to the question.

CHICAGO LAW JOURNAL.—October 2.

The Case of Shelley v. *Westbrook.* Rousseau A. Birch. (Address delivered before the Kansas State Bar Association.) An impassioned defense of Shelley and a violent attack upon Lord Eldon combined. Interesting, but almost impossible to read, owing to the very bad mechanical execution given it by the journal.

CHICAGO LAW JOURNAL.—October 16.

Inter-Relation of Contemporary English and American Jurisprudence. Hon. Edward O. Brown. (Speech delivered at a banquet to Sir Fred-

erick Pollock.) A very pleasant address which does not reach any depth in the matter, and apparently was not intended to add anything to our knowledge of the subject.

CHICAGO LAW JOURNAL.—October 23.

The Microscope and Camera in the Detection of Forgery. Marshall D. Ewell, M. D., LL. D. (This paper is reprinted by the editor as out of print. He states that it has been previously published in the proceedings of the American Microscopical Society, the AMERICAN LAW REGISTER, September, 1890; *Pump Court*, London, England; *Irish Law Times*, and *Canadian Law Journal*.) First shows the various methods by which forgery may be committed, then the different modes of detection, and shows further, by means of illustration, the great efficacy of the microscope in this work.

CENTRAL LAW JOURNAL.—October 2.

Damages by Flood. Francis A. Leach. An attempt is here made to ascertain the rule of liability for damages from floods. A conflict is found between the decisions of the New York courts and those of Pennsylvania, Massachusetts and the United States. "In the former, the negligence of the defendant accompanying an act of God is presumed to be proximate unless the defendant proves it to be remote, while in the latter, such negligence is presumed to be remote unless proved to be proximate by the plaintiff. In the former, the burden of proof is on the defendant; in the latter, on the plaintiff. The weight of authority both in this country and in England appears to be with the rule laid down in the latter cases."

CENTRAL LAW JOURNAL.—October 9.

Liability of Parties Who Are at the Same Time Both Jointly and Severally Liable ex Contractu. Walter L. Chaney. Very completely annotated article bringing the subject from its early phases under the common law to the present time, and concluding with the statutory changes in both England and America.

CENTRAL LAW JOURNAL.—October 23.

Right of an Adult Child to Recover for Services Rendered to a Parent. Colin P. Campbell. The old rule insisting upon an express contract in such cases is now much weakened, even in Pennsylvania, where it seems to have had its inception. The cases cited show how the growth has come about, and the manner in which the modifications have been made.

CENTRAL LAW JOURNAL.—October 30.

The Firm as a Legal Person. William Hamilton Cowles. The old question as to whether the firm is a legal entity apart from the persons who compose it arises here, and case after case is cited to show how both theories have been maintained. Then the history of the conflict is given, and the final appeal is thus made: "Let them" (the courts) "appropriate the word firm exclusively to indicate the collective artificial person; let them banish the word joint from the vocabulary of partnership; let them cease reiterating that the common law does not recognize the firm as a person simply because that was true two hundred years ago, and, in spots, twenty-five years ago; and let them frankly put these so-called subrogation cases on the shelf as relics of a past stage of the law."

THE GREEN BAG.—October.

Stephen A. Douglas as a Lawyer. Eugene L. Didier. While this paper is in many respects appreciative, even enthusiastic, yet it leaves the impression that we have not here a sketch of the true Stephen Douglas; not that he was better or worse, but that he was another than the one set forth here.

The Humbert Trial: A Glimpse of a French Cause Célèbre. A. E. Pillsbury. In most articles upon foreign trials or foreign courts, we find what we feel to be caricature without being able to define the point where the report of fact has ceased to be the fact as seen and has become the fancy of the reporter. Here we have a fair, clear, apparently accurate and exceptionally well-written account of one of the most dramatic trials of recent date in a French court. As a consequence the article has a value greater than would appear from its title.

Wrong Without Remedy: A Legal Satire. VI. Expenditures Necessary, but Unlawful. Wallace McCamant. The hero of this satire continues his exploits with great success. He, by patient research, discovers these "necessary, but unlawful," expenditures made by a corporation in protecting its interests in the legislature, threatens suit, is bought off, and retires with more thousands to his credit.

The Glove: Its Relation to the Law, the Bench and the Bar. Charles J. Aldrich. The earliest legal transaction noticed, in which the glove appears, is that in which a parcel of land was conveyed to Boaz, the "shoe" there spoken of, properly translated, being a glove. Other biblical references are given. Then the glove appears as a symbol of delivery of possession; of reinvestiture or restitution; as a pledge of faith; as sealing a compact, and as a proxy in the marriage service. Probably the latest instance of the legal use of the glove is that given here, when in that celebrated case of *Ashbridge* v. *Thornton* (the last case of "wager of battle"), the appellee, pleading as follows, "Not guilty; and I am ready to defend the same by my body," took off his glove and threw it upon the floor of the court.

Woman and the Law in Babylonia and Assyria. R. Vashon Rogers. Mr. Rogers has shown his versatility in writing of nearly all things under the law. In this latest effort he gathers together all the interesting points on his subject and makes a very readable article.

The Right of Privacy. W. Archibald McClean. The difference between the right to privacy of the private person and a public character is first touched upon; then the expiration of such right with the ceasing of the life of the person. The argument is made that the public person should be protected in his private life, even though in his public capacity he has given himself to the public. Some new ideas—new to print, at least—seem to be expressed here. "Are there not odors, and smoke, which invade not only one's possessions, but also one's personality? Is not the thoughtless blowing of a whiff of tobacco smoke into the face of another, to the latter's nausea and distress, an invasion of the right of privacy? Noise, smoke and odor have been enjoined as nuisances. Is there not a higher right calling for their restraint? Are they not invasions of the right of privacy?" The new libel bill of Pennsylvania is said to be "only worthy of condemnation."

A Legal Study of Saint Augustine the Saxon. Joseph M. Sullivan. One of Mr. Sullivan's slight sketches, hardly justifying the title of a "legal study."

JURIDICAL REVIEW.—September.

Studies in the Law of Contract. A. Hindenburg. I. The Unilateral Obligation. Under this head it is considered that legal fictions should be abandoned and it should be conceded that unilateral obligations are

valid without acceptance. 2. The Contract. 3. Contracts by Correspondence. Under these two heads the time when the two wills form, by meeting, a contract, and time when this meeting may be held to have taken place when the parties are at a distance, are discussed. 4. The Offer. 5. The Acceptance. 6. The Duty of Replying. 7. Contracts by Telegram. Under these heads the writer gives a short and clear review of the law as it stands at the present time. The annotations are very few and chiefly of continental authorities.

Judicial Bias. Will. C. Smith. Much of the article is local and couched in the language of the Scotch courts, but the principles on which it is based are of general interest. The many ways in which a judge may be interested, even to the point of being biased in a cause which comes before him, are noted, and the care taken by the Scotch and English courts to prevent partiality of this kind is well shown.

The Incidence of Estate Duty. P. J. Hamilton Grierson. This long and full article is of interest chiefly to those who live under the law of England. The interpretation of English statutes on the subject forms the greater part of the paper.

The Recent Case of Treasure Trove. Dr. Robert Munro. (*The Attorney-General* v. *The Trustees of the British Museum*, 1903, 19 T. L. R. 555.) In 1896 some ploughmen turned up with their ploughs a number of gold ornaments. The field in which these ornaments were found was in Ireland. The ornaments went into the possession of a Mr. Day, who sold them to the British Museum. The Irish Academy claimed them as treasure trove and the attorney-general instituted suit to have them restored to Ireland. The trustees of the museum denied that the articles were treasure trove, and the right of the attorney to bring suit. It was argued that these articles had not been concealed and therefore were not treasure trove. The ingenious (and very far-fetched) arguments upon these points are fully given. Mr. Justice Farwell was rather severe on these ingenuities, and the result was that the ornaments were pronounced to be treasure trove "belonging to his majesty." The British Museum was ordered to deliver them up and his majesty presented them to the Irish Academy.

Property in Wild Animals. II. William F. Trotter. This second portion of the article treats of the statutory modifications of the common law in regard to wild animals and the respective rights of property in such animals as between landlord and tenant or occupier. This renders this part of the article much less interesting to the American reader than was the first part, though it is as learned and complete in treatment.

LAW STUDENT'S HELPER.—October.

The Maxims of Equity. Hon. Murray F. Tuley. The maxims treated of in this number are "Equity regards that as done which should be done," "He who comes into equity must come with clean hands" and "Equality is equity." All these are treated, as they have been in the former papers, with clearness and intelligence.

VIRGINIA LAW REGISTER.—October.

Subsequent Birth of Children as a Revocation of a Will. Marvin H. Altizer. First we have the law before the statutes—that is, the common law—under which the birth of a child did not cause the will to be revoked, although this was subsequently modified before the passing of the statutes. Then we have the statute law in the United States, taking Virginia as a type and comparing it with the other states. The article is to be continued.